

Appl. No. 09/538,821
Amendment in response to
Office Action mailed 08/11/2003

REMARKS

In the Office Action mailed 08/11/2003, the Examiner rejected claims 1 and 43 under 35 U.S.C. s. 112, second paragraph. The Examiner in particular objected to the phrase "manufactured from a substance which can be subjected to sufficiently high temperatures to destroy endotoxins" as indefinite. Claims 1 and 43 have been amended to address this objection. It is respectfully submitted that one skilled in the art would know precisely which substances the reservoir is manufactured from as the person skilled in the art would know the temperatures required to be applied over what period of time to destroy endotoxins and would also know the substances which can withstand such temperatures for such period of time without damage.

The Examiner further rejected claims 1 and 38-43 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Wilkins United States Patent no. 4,851,642; rejected claim 5 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Wilkins as applied to claim 1 and further in view of Murphy United States Patent no. 5,972,196; rejected claim 6 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Wilkins as applied to claim 1 and further in view of Black United States Patent no. 3,717,434; rejected claim 7 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Wilkins as applied to claim 1 and further in view of Hestehave United States Patent no. 4,548,344; rejected claim 8 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Wilkins as applied to claim 1 and further in view of Herr United States Patent no. 5,671,868; and rejected claim 4 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Wilkins as

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applied to claim 1 and further in view of DE 3103381 A1. Reconsideration having regard to the following remarks is respectfully requested. It is submitted that the claims patentably distinguish the cited prior art.

Newman discloses the prior art cassette autoclave which exhibits the problem addressed by the present invention. In particular it utilizes a container 30 for the distilled water which is "adapted to be contained within a relatively small and lightweight benchtop unit" (column 1, lines 60-61). Newman addresses the problem of contaminants building up with time (column 1, lines 46-51) but it addresses that problem by focussing on the design of the pressure chamber in the form of a cassette. The possibility of making the distilled water reservoir separable and removable from the unit to permit sterilization of the reservoir is neither disclosed nor suggested by Newman. Thus Newman teaches away from the present invention by focussing on the cassette design to solve buildup of contaminants.

Wilkins describes a hand-held wallpaper steamer for use in stripping wallpaper. Such devices use steam to soften the adhesive on wallpaper so it can be easily removed. The steam is generated by a steam generator and then collected at the base of the steamer in an open chamber which is held against the wallpaper surface. Wallpaper steamers are used by the home handyman, house painting contractors and wallpaper contractors. Such persons would generally not be involved in the design of ophthalmological equipment. Conversely those involved in the design of ophthalmological or eye surgery equipment, and in particular sterilizers for ophthalmological equipment, would not look to wallpaper steaming equipment for guidance. Whereas cleanliness and sterility, and high temperatures suitable for sterilizing are clearly paramount considerations in the operation of sterilizers for ophthalmological equipment, such factors are not important in

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steaming wallpaper, an exercise which is by nature messy and unclean, in which the application of steam is necessarily open to the surrounding environment of non-sterile wall covering, paint, dirt and dust and the main concern is effective application of moisture and heat to a wall at a temperature sufficient to soften the adhesive. The field of wallpaper steaming equipment is therefore neither within the field of the inventors' endeavor in this case, nor reasonably pertinent to the particular problem with which the inventors were involved, namely the reduction of *diffuse lamellar keratitis* in laser corneal surgery. (See *In re Deminski*, 796 F. 2d 436, 442 (Fed. Cir. 1986). The art of wallpaper steaming equipment is not analogous to the art of sterilizers for ophthalmological equipment.

Further the person skilled in the art would not be motivated to combine Newman and Wilkins. The apparatus disclosed in Newman is used in dental or medical offices or hospitals to sterilize dental or surgical instruments. It uses distilled water for the steam. The steam is contained within the device to sterilize the instruments which are placed into the device. Portability is not a factor since the instruments to be sterilized are brought to the sterilizer. Nor is ease of refilling the water tank a factor since the amount of water required for a sterilizing cycle is not very large, 70 ml. per typical tray of instruments (see column 7, line 46). The purpose of the removability of the tank in Wilkins is for ease of re-filling since the steamer in Wilkins can only be used for 20 minutes before the tank needs re-filling (column 13, lines 5, 6). Sterilization of the water tank in Wilkins is clearly not contemplated as such would be unnecessary for steaming wallpaper. Thus one skilled in the art would not be led to the present invention by combining Newman and Wilkins. It is submitted therefore that the person skilled in the art would not be led without some invention to the presently claimed invention.

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It is submitted therefore that the present claims are allowable, and
issuance of a Notice of Allowability is respectfully requested.

Respectfully submitted,

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Bruce M. Green Feb. 11, 2004